

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jeffery J. Brose,

Petitioner-Appellant,

v.

Warren County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-91-0739
Parcel No. 05482000520**

On September 3, 2010, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jeffery J. Brose was present, self-represented, and submitted evidence in support of his position. Notice of Hearing was sent to County Attorney Brian Tingle, the designated legal representative for the Board of Review. The Warren County Board of Review did not attend the hearing and did not submit any additional evidence other than the certified record. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jeffery J. Brose protested to the Warren County Board of Review regarding his residentially classified property located at 208 Coventry Boulevard, Des Moines, Iowa. According to the property record card in the certified record, the improvements include a single-story home built in 1991 with 1231 square feet of total living area, a full basement with 850 square feet of living-quarters finish, and a 504 square-foot deck. There is also a 24 foot by 26 foot attached garage. The site is 21,910 square feet.

The 2009 residential assessment was \$192,300, allocated as follows: \$22,400 to the land and \$169,900 to the improvements. Brose's claim was based on a single ground: that the assessment is not equitable with that of like properties under Iowa Code section 441.37(1)(a). The Board of Review left the 2009 value unchanged.

Brose then appealed to this Board, asserting the same ground, and contending the correct total assessed value is \$169,000. Brose also added the ground that there is an error in the assessment under Iowa Code section 441.37(1)(d). Brose did not state what he believes the error to be, but his statement asserts his property is over-valued. Neither error, nor an assertion the property is assessed for more than authorized by law, was claimed before the Board of Review and therefore, cannot be considered by this Board.

Brose offered three properties as equity comparables to the Board of Review. He provided the parcel number and assessment only. The certified record has an excel spreadsheet titled "Owner Comps," that include those properties listed on Brose's petition. The certified record includes a print-out from the Beacon website time-stamped May 3, 2009, for each of the three properties on the spreadsheet.

It is unclear who created the spreadsheet. The properties outlined on the spreadsheet were selected by Brose, but based upon the certified record it appears the spreadsheet was created by the Board of Review. Additionally, it is unclear exactly what the spreadsheet is meant to demonstrate. The Board of Review was not present at the hearing to identify or explain the document.

During his testimony Brose was unable to explain why information on the "owner comps" spreadsheet was inconsistent with information on the attached property-record printouts. For instance, the property located at 2528 Shady Lane Drive submitted by Brose as an equity comparable, is reported as having an assessed value of \$171,200. The attached property-record printout indicates the 2009 assessed value is \$126,100 which reflects a \$45,600 exemption. There is no explanation for the

exemption. Another property submitted by Brose as a comparable, located at 11703 220th Avenue, is reported on the spreadsheet as having a total assessed value of \$179,500, but the attached property-record printout indicates a 2009 total assessed value of \$148,000.

There is a second spreadsheet in the certified record entitled "Our Comps." This spreadsheet identifies four properties, assumed to be equity comparables submitted on behalf of the Board of Review at the time of Brose's petition. The four properties were all built between 1966 and 1977 compared to the subject property's year built of 1991. Partial property-record cards for each of the four properties on the spreadsheet were attached. The information on the spreadsheet reconciles with the property-record card information. We are, however, left with no explanation of the intent of the spreadsheet and what it is meant to demonstrate. We give this spreadsheet and the "Owner Comps" spreadsheet no consideration due to the lack of explanation of the data.

Brose submitted an appraisal completed by Brad Schultz of Mid-Iowa Professional Appraisals, Inc. Schultz prepared a summary appraisal report for Community Choice Credit Union, for mortgage purposes, with an effective date of October 13, 2009. Schultz analyzed and adjusted three comparable properties within his report, concluding a final opinion of value of \$160,000 for Brose's property. All three of the sales considered by Schultz occurred between July and September of 2009, well after the January 1, 2009, assessment date at issue. As a result, we give no consideration to the Schultz appraisal as those sales are well after the assessment and may not reflect the market on January 1, 2009.

Brose also submitted two additional exhibits with properties he considers comparable to his. Exhibit 4 consists of four property-record printouts from the Beacon website, time-stamped August 13, 2009. Each of the four properties have a one page printout. The properties, their assessments, and some of their features are as follows: 8303 Ridgeview Drive has a 2009 total assessment of \$164,400 and no transfers in the 24 months prior to the January 1, 2009, assessment. This is a split-foyer home

compared to the subject's ranch style, and was built in 1968 compared to the 1991 year built of the subject property. 8539 Ridgeview Drive has a total 2009 assessment of \$152,900, with no previous transfers, and is also a split-foyer home built in 1987. 8604 Ridgeview Drive has a total 2009 assessment of \$138,500, with no previous transfers, is a one-story home built in 1988. Lastly, 106 Coventry Boulevard has a total 2009 assessment of \$147,200, no recent transfers, is a split-foyer design and built in 1979.

None of these properties recently sold, and Brose did not provide a determination of market value for these four properties. Nor did he make any comparisons between the market value and 2009 assessments to determine a ratio analysis. While the properties are unadjusted in comparison to the subject for differences, they do appear to offer similar overall utility (gross living area and room count) and amenities. However, they are somewhat older homes, several are on significantly smaller sites, and the condition of these properties compared to the subject is unknown. As such, the information fails to support an equity claim.

Lastly, Brose provided a spreadsheet of residential comparables sales which, according to Brose, were identified as being prepared by his appraiser, Schultz. The spreadsheet consists of twelve properties and includes the following information: parcel number, address, sale price, sale date, recording date, year built, lot size, total living area, finished basement area, basement type, attic type, bedrooms, AC, fireplace, vacancy, occupancy, and style. Eleven of the twelve properties sold prior to the January 1, 2009 assessment date. Of those eleven properties, the sales prices range from \$160,000 to \$198,000. The average sales price was roughly \$174,000 and the median sales price is roughly \$167,000. However, these are unadjusted ranges and estimates. The properties which have a reported year built, were built between 1950 to 1990. The lot sizes range from 8,712 square feet to over 700,000 square feet (16 acres). The subject site is 21,910 square feet. Only three sales of the eleven 2008 transactions have less than 12,000 square-foot sites, the remaining eight sales have sites in excess

of 115,000 square feet. Only three of the 2008 sales are one-story homes similar to the subject property. Those three properties have a sales price range of \$162,000 to \$170,000.

This spreadsheet and information fails to contrast market value of similar properties to their assessed values to determine a ratio analysis for comparison. None of the eleven properties submitted has a reported assessed value. As such, we give little consideration to this information in support of an equity claim.

Although Brose offered primarily raw data, with no adjustments for differences, there is information presented which would support an assertion the subject property is assessed for more than authorized by law. Brose's 2009 appraisal, which values the property at \$160,000 or \$32,400 less than its January 1, 2009, assessed value, tends to indicate it is currently over-assessed. Unfortunately, however, this is not a claim the Board can address in this appeal as it was not raised. Furthermore the appraisal does not support changing the January 1, 2009, assessed value since all the sales occurred after that date.

Based upon the foregoing Brose has provided insufficient evidence to prove the assessment of his property is inequitable.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). Although Brose provided an appraisal determining the market value of his property, it had an effective date 10 months after the January 1, 2009 assessment date and cannot be relied upon to reflect the January 1 assessment.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."


Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

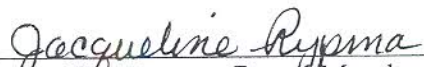
While Brose offered a substantial amount of properties he considered comparable to the subject property, he failed to establish either the market value of the properties or compare sales prices to the assessments to determine a ratio analysis. Brose failed to present sufficient evidence to support a claim of inequity.

In the opinion of the Appeal Board, the evidence does not support the claim that the property's assessment is not equitable as compared with assessments of other like property in the taxing district. Therefore, we affirm the January 1, 2009, assessment of the property located at 208 Coventry Boulevard, Des Moines, Iowa, as determined by the Warren County Board of Review.

THE APPEAL BOARD ORDERS the assessment of 208 Coventry Boulevard, Des Moines, Iowa, as of January 1, 2009, set by the Warren County Board of Review, is affirmed.

Dated this 14 day of October, 2010


Karen Oberman, Presiding Officer


Jacqueline Rypma, Board Member

Cc:

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APPELLANTS

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-14</u> , 20 <u>10</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	